

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
BROOKLYN DIVISION

-----X  
DINA CHECK, on behalf of Minor MC,

Plaintiff,

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION,

Defendant.

VERIFIED COMPLAINT

Docket No. 13-CIV- \_\_\_\_\_ -

Hon. \_\_\_\_\_,  
U.S.D.J.

Hon. \_\_\_\_\_,  
U.S.M.J.

-----X  
Plaintiff, by and through her attorney, alleges as follows:

**Nature of Action**

- 1) This action involves constitutional and human rights violations and a breach of contract stemming from a denial of Plaintiff's right to a medical exemption from otherwise-required vaccines pursuant to New York State Public Health Law Section 2164(8), religious exemption from otherwise-required vaccines pursuant to New York State Public Health Law Section 2164(9), New York City and New York State Human Rights laws, and the First, Ninth, and Fourteenth Amendments to the United States Constitution. Defendant refused to admit Plaintiff's daughter to their school without the vaccines otherwise required by New York State Public Health Law Section 2164 even though Plaintiff's daughter previously obtained a religious exemption from vaccines and has sincere and genuine religious objections. Plaintiff claims that her daughter qualifies for either or both exemptions and that Defendant is impermissibly, arbitrarily, unreasonably, and capriciously violating Plaintiff's rights to the statutorily-provided exemption, in violation of the United States Constitution and other laws.

### **Jurisdiction and Venue**

- 2) This case involves questions of law pursuant to the First, Ninth, and Fourteenth Amendments to the United States Constitution by way of 42 U.S.C. § 1983, providing federal question subject-matter jurisdiction under 28 U.S.C. § 1331. The Court has subject-matter jurisdiction over the state-law claims pursuant to 28 U.S.C. § 1367.
- 3) Defendant is situated in New York State, resulting in personal jurisdiction by this court.
- 4) The majority of events that gave rise to this action occurred in Richmond County making venue and division proper.

### **Parties**

- 5) Plaintiff was at all times hereinafter domiciled as a citizen of the State of New York.
- 6) Defendant is a public education department duly organized under the laws of the State and city of New York.

### **Factual Allegations**

- 7) On or about September 2010, Plaintiff's daughter started school at a YMCA education program and Plaintiff had requested a religious exemption pursuant to New York State Public Health Law Section 2164(8) and (9).
- 8) The school program's director, Allison Sicuranza informed Plaintiff of the documents required in order to apply for the religious exemption and Plaintiff complied, submitting such documentation. *See Exhibit 1, NYSED Request for Religious Exemption to Immunization Form, Parent/Guardian Statement.*

- 9) Plaintiff understood that the religious exemption was granted, and the infant plaintiff attended school throughout the 2010-2011 and the 2011-2012 academic school year without being immunized due to the family's sincerely held religious beliefs.
- 10) Plaintiff is a practicing Roman Catholic.
- 11) Plaintiff opposes vaccines on religious grounds, one important reason being that life is a gift from God and the body is a marvelous work of divine creation to be revered as a temple of God. To inject invasive and unnatural substances into this divine creation is showing a lack of faith in God and His way. *See Exhibits 1-4, NYSED Request for Religious Exemption to Immunization Form, Parent/Guardian Statement, Undated Letter from Dina and Andrew Check, October 26, 2012 Letter from Dina and Andrew Check and Andrew and Dina Check's Statement of Beliefs.*
- 12) In addition to the family's religious beliefs in opposition to immunizing, plaintiff's daughter has serious medical issues that prevent her from being immunized.
- 13) On or about December 2011, plaintiff's daughter's medical condition severely worsened. Subsequently, plaintiff's daughter's pediatrician, Dr. Michael Gabriel stated that it would be medically dangerous for plaintiff's daughter to receive further vaccines until tests were run and the child was seen by specialists including a gastrointestinal specialist and an immunologist. The doctor then provided plaintiff with a medical exemption from immunizations for her child. *See Exhibit 5, Medical Request for Immunization Exemption signed by Dr. Michael Gabriel on March 7, 2012.*

- 14) Dr. Gabriel also prescribed special medication, including digestive enzymes which the child had to take before she ingested any foods. At this same visit, the pediatrician filled out the physician form related to the child's 504 plan that was to be submitted to the school nurse so that the nurse could administer this medication during the school day.
- 15) Further, plaintiff was instructed by the district to have her daughter's pediatrician fill out the medical form which accompanied the 504 plan and to have these documents submitted to the school prior to the start of the school year so that the school nurse would have an understanding of the child's health care needs and could approve of the prescribed medications.
- 16) Plaintiff was not seeking a medical exemption as her daughter had already been granted a religious exemption two years prior.
- 17) Due to a clerical error by the school nurse, the medical paperwork was submitted as an application for a medical exemption to the Defendant's Health Department without plaintiff's knowledge or consent.
- 18) Nonetheless, Defendant found that Plaintiff's daughter's medical condition was insufficient for a medical exemption, contrary to the recommendation and medical exemption provided by the child's pediatrician, Dr. Michael Gabirel. Defendant, arbitrarily, unreasonably, and capriciously denying the medical exemption. *See Exhibit 6, October 18, 2012 Letter from Julia Sykes, Denying Medical Exemption.*
- 19) Upon receiving notice of the denial of the medical exemption, Plaintiff was confused as her daughter had already been receiving the prescribed medications during the school

day. Plaintiff's understanding of the medical exemption which accompanied the 504 plan was that the medical exemption from the pediatrician was to be used for the sole purpose of having the school nurse administer the medications to her daughter during the school day.

- 20) Since plaintiff had obtained a religious exemption for her child using the New York State Request for Religious Exemption Form and since her religious beliefs have not changed there was no reasonable basis to arbitrarily deny the existing religious exemption simply because of the change in the child's medical condition.
- 21) After receiving the denial of the medical exemption, plaintiff discussed with the principal, Melissa Garafolo, that she had already obtained a religious exemption pursuant to NYS PHL 2164(9) and that the her daughter had attended a New York City School with a religious exemption from immunizations for the last two years.
- 22) On or about September 2012, plaintiff then submitted to Principal Garafalo a request for a religious exemption from immunizations based on the same sincerely held religious beliefs pursuant to which the exemption was granted in 2010. *See Exhibit 2, Undated Letter from Dina and Andrew Check.*
- 23) Upon information and belief, although plaintiff had submitted to the school her request for a religious exemption in September 2012, said application for a religious exemption was not forwarded to the NYC Health Department by school administration until October 21, 2012. This request was subsequently denied 24 hours later in a letter wherein additional information was required. *Exhibit 7, October 22, 2012 Letter from Julia Sykes requesting additional information.*

- 24) Upon information and belief the request for a religious exemption had been in the child plaintiff's file since September 2012, however, was not submitted by school administration until after denial of the medical exemption. *See Exhibit 6, October 18, 2012, Letter from Julia Sykes, Denying Medical Exemption.*
- 25) On October 26, 2012, plaintiff submitted a second request for religious exemption setting forth the answers to the questions in the denial letter received from Julia Sykes at the NYC Department of Education Immunization Program, Office of School Health. *See Exhibit 3, October 26, 2012 letter from Dina and Andrew Check.*
- 26) On November 7, 2012, despite Plaintiff having enjoyed a religious exemption for the two (2) years prior to this application, and her beliefs remaining steadfast and consistent, plaintiff received another letter from Julia Sykes at the NYC Department of Education Immunization Program, Office of School Health stating that her application for a religious exemption was again denied and stating that Plaintiff could appeal the denial by requesting an interview with Jolan Nagi, Health Liasion, within 10 school days of receipt of said letter. *See Exhibit 8, November 7, 2012 Denial Letter from Julia Sykes.*
- 27) On or about December 3, 2012, plaintiff attended an appeal interview with Jolan Nagi, Health Liasion and answered six (6) questions regarding her religious beliefs.
- 28) After review of the report from Jolan Nagi, plaintiff sent an email to Nagi to clarify some of the religious beliefs that were discussed during this interview. *See Exhibit 9, Email to Jolan Nagi.*

- 29) On or about December 4, 2012, within 24 hours of this interview, plaintiff received a third denial for her application for a religious exemption from the immunization requirements of NYS PHL 2164(9). *See Exhibit 10, December 4, 2012 Letter from Julia Sykes, Denying the Appeal for a Religious Exemption.*
- 30) Plaintiff subsequently spoke with Julia Sykes, a representative of Defendant, who continuously referred to the fact that Plaintiff had first applied for a medical exemption and then sought a religious exemption after the medical exemption had been denied. This is incorrect.
- 31) Plaintiff never filed for a medical exemption, rather, the child was attending school in New York City pursuant to a valid religious exemption provided under NYS PHL 2164(9).
- 32) Defendant believed that Plaintiff was using religion as a pretext for medical fears about immunizations.
- 33) Defendant was unaware that the child had been attending school in New York City for more than two years pursuant to a valid religious exemption granted to her under NYS PHL 2164(9).
- 34) The entitlement to an education and the medical exemption of Public Health Law Section 2164(8) includes both public and private schools.
- 35) The entitlement to an education and the religious exemption of Public Health Law Section 2164(9) includes both public and private schools.

36) Public Health Law Section 2164 subsections (2), (7), and (9) provide as follows in relevant part:

(2) “Every person in parental relation to a child in this state shall have administered to such child an adequate dose or doses of an immunizing agent against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, Haemophilus influenzae type b (Hib), pertussis, tetanus, pneumococcal disease, and hepatitis B, which meets the standards approved by the United States public health service for such biological products, and which is approved by the department under such conditions as may be specified by the public health council.”

(7) “No principal, teacher, owner or person in charge of a school shall permit any child to be admitted to such school without the certificate provided for in Subdivision 5 of this Section or some other acceptable evidence of the child’s immunization against poliomyelitis, measles, diphtheria, rubella....”

(8) “If any physician licensed to practice medicine in this state certifies that such immunization may be detrimental to a child’s health, the requirements of this section shall be inapplicable until such immunization is found no longer to be detrimental to the child’s health. “

(9) “This section shall not apply to children whose parent, parents, or guardian hold genuine and sincere religious beliefs which are contrary to the practices herein required, and no certificate shall be required as a prerequisite to such children being admitted or received into school or attending school.”

Public Health Law § 2164.

- 37) Plaintiff's daughter has medical contraindications and has had a New York State physician indicate same, qualifying her for a medical exemption.
- 38) Plaintiff holds faith in a belief system contrary to the above-mentioned statutory requirements in Public Health Law Section (2) and (7), thereby bringing Plaintiff within the statutory religious exemption set forth in Public Health Law Section 2164(9) and guaranteeing the exemption.
- 39) In defining what constitutes "religious belief" for purposes of the constitutional guarantee of freedom of religion, the test is whether Plaintiff's beliefs and faiths occupy a place in their lives parallel to that filled by the orthodox belief in God held by others, or any other "sincere religious beliefs which are based upon a power or being, or upon a faith to which all else is subordinate or upon all else is ultimately dependent." *U.S. v. Seeger*, 380 U.S. 163, 176, 85 S.Ct. 850, 859, 13 L.Ed.2d 733, 743 (1965); *see also Sherr and Levy v. Northport East-Northport Union Free School District*, 672 F.Supp 81, 92 (E.D.N.Y. 1987) (quoting *Seeger, supra*, 380 U.S. at 165-66, 85 S.Ct. at 854, 13 L.Ed. 2d at 737).
- 40) No legitimate or legal basis exists for an independent school to avoid accepting the medical or religious exemption provided for pursuant to New York State Public Health Law Sections 2164(8-9) because there is no requirement under the law that Plaintiff be a member of a religious group that has tenets contrary to vaccinating. The exemption he seeks is based upon a personal religious belief and interpretation of his religion.
- 41) By reason of the fact that the Plaintiff's daughter's medical condition makes it dangerous for her to receive additional vaccines, and that Plaintiff's religious beliefs are genuine and sincerely held, and in the absence of an epidemic or outbreak of the communicable

diseases, Plaintiff must be deemed to be within the statutory religious exemption set forth in Public Health Law Section 2164(9). *See Bowden, et al., v. Iona Grammar School, et al.*, 284 A.D.2d 357, 358, 726 N.Y.S.2d 685, 686 (2d Dep't 2001) (citing Public Health Law § 2164(1)(a)).

### **Count One**

(Impermissible Burdening of Free Exercise of Religion in Denial of United States Constitution-  
First and Fourteenth Amendment Rights)

- 42) Plaintiff reiterates and restates the allegations in the Verified Complaint's previous paragraphs and incorporates them therein.
- 43) Defendants School District and Superintendent have arbitrarily, capriciously and unreasonably denied Plaintiff Infant's application for an exemption.
- 44) The actions of Defendants have resulted in a denial of Plaintiff's rights to freedom of religion in violation of the First Amendment of the United States Constitution under the Free Exercise clause, made applicable to the states and state actors through the Due Process Clause of the Fourteenth Amendment to the United States Constitution.
- 45) Based upon the foregoing, Defendants are liable within this cause of action for violation of federal constitutional rights pursuant to 42 U.S.C. § 1983.

### **Count Two**

(Violation of the Ninth and Fourteenth Amendment Rights)

- 46) Plaintiff reiterates and restates the allegations in the Verified Complaint's previous paragraphs and incorporates them therein.
- 47) The Ninth Amendment guarantees individual rights and personal liberties, such as actions taken with one's body.
- 48) Defendants have acted as an arm of the state taking on the function of enforcing its immunization requirements, constituting state action.
- 49) Defendants have arbitrarily, capriciously, and unreasonably denied Plaintiff's request for the religious exemption from vaccines.
- 50) Based upon the foregoing, Defendants are liable within this cause of action for violation of federal constitutional rights pursuant to 42 U.S.C. § 1983.

### **Count Three**

(Violation of United States Constitution's Substantive Due Process Clause)

- 51) Plaintiff reiterates and restates the allegations in the Verified Complaint's previous paragraphs and incorporates them therein.
- 52) The Fourteenth Amendment of the United States Constitution also guarantees unenumerated rights through substantive Due Process.
- 53) In applying New York State's vaccine exemption statute, Defendant has acted under color of state law, depriving Plaintiff and her daughter of a fundamental right to refuse medical intervention for the daughter's body.

- 54) Based upon the foregoing, Defendant is liable within this cause of action for violation of federal constitutional rights pursuant to 42 U.S.C. § 1983.

**Count Four**

(Violation of New York State Public Health Law Section 2164(8))

- 55) Plaintiff reiterates and restates the allegations in the Verified Complaint's previous paragraphs and incorporates them therein.
- 56) Defendant, by and through her agents, servants and employees has violated New York State Public Health Law Section 2164, applying it in a grossly incorrect manner, refusing to give proper consideration to the application for the medical vaccine exemption, and attempting to deprive Plaintiff of her statutory rights to a medical exemption from vaccines for school admission, in ignoring the physician's certification of medical contraindications.
- 57) Based upon the foregoing, Defendant has improperly applied the New York statute to Plaintiff's situation.

**Count Four**

(Violation of New York State Public Health Law Section 2164(9))

- 58) Plaintiff reiterates and restates the allegations in the Verified Complaint's previous paragraphs and incorporates them therein.
- 59) Defendant, by and through her agents, servants and employees has violated New York State Public Health Law Section 2164, applying it in a grossly incorrect manner, refusing

to give proper consideration to the application for the religious vaccine exemption, and attempting to deprive Plaintiff of her statutory rights to a religious exemption from vaccines for school admission.

- 60) Plaintiff has set forth a valid basis of religious beliefs contrary to vaccinating, entitling her entire family to the religious exemption from vaccines.
- 61) Defendant has therefore unlawfully violated Plaintiff's rights to a religious vaccine exemption due to an impermissible classification of Plaintiff and her family by their religion, an improper application of the statute, or both, in not accepting Plaintiff's claim for an exemption pursuant to Public Health Law Section 2164.
- 62) Based upon the foregoing, Defendant has improperly applied the New York statute to Plaintiff's situation.

WHEREFORE, Plaintiff respectfully requests:

- a) Judgment of this Court ordering Defendant to grant the medical exemption from vaccines;
- b) Judgment of this Court ordering Defendant to grant the religious exemption from vaccines;
- c) Costs, disbursements, and attorney's fees to the extent allowable by law; and
- d) Such other, different, and further relief this Court may deem just and proper.

Dated: Piermont, New York  
January <sup>29</sup>\_\_, 2013

/s/ Patricia Finn, Esq.

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Patricia Finn, Esq.  
Attorney for Plaintiff  
Patricia Finn, Attorney, P.C.  
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Piermont, New York 10968  
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**Designation of Trial Counsel**

Patricia Finn, Esq., is designated as trial counsel in this matter.

Dated: Piermont, New York  
January <sup>29</sup>  , 2013

/s/ Patricia Finn, Esq.

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Patricia Finn, Esq.

To:  
New York City Department of Education  
52 Duane Street  
New York, NY 10007  
Ph: (212) 374-5115

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
BROOKLYN DIVISION

-----X VERIFICATION  
DINA CHECK, on behalf of Minor MC. OF COMPLAINT

Plaintiff.

Docket No. 13-CIV- \_\_\_\_\_ -  
\_\_\_\_\_ - \_\_\_\_\_

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION.

Hon. \_\_\_\_\_  
U.S.D.J.

Defendant.

Hon. \_\_\_\_\_  
U.S.M.J.

-----X  
STATE OF NEW YORK :

COUNTY OF ny :  
:SS

VERIFICATION OF COMPLAINT

DINA CHECK being duly sworn deposes and says that I am a Plaintiff in this proceeding; concerning the attached Complaint knows the contents thereof; that the same is true to the knowledge of deponent except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.

  
Dina Check, Plaintiff

Sworn to and subscribed by me this  
21 day of January, 2013

  
Notary Public

JEANNE HALLACK  
NOTARY PUBLIC, STATE OF NEW YORK  
NO.01HA4765238

QUALIFIED IN RICHMOND COUNTY  
COMMISSION EXPIRES SEPTEMBER 30, 2014

# EXHIBIT 1



## Education - P-16

Name of Student \_\_\_\_\_

Identification Number \_\_\_\_\_

Name of Parent(s)/Guardian(s) Dina check, Andrew check

School District and Building Name Ymca Broadway center

**This form is for your use in applying for a religious exemption to Public Health Law immunization requirements for your child. Its purpose is to establish the religious basis for your request since the State permits exemptions on the basis of a sincere religious belief. Philosophical, political, scientific, or sociological objections to immunization do not justify an exemption under Department of Health regulation 10 NYCRR, Section 68-1.3 (d), which requires the submission of:**

A written and signed statement from the parent, parents, or guardian of such child, stating that the parent, parents or guardian objects to their child's immunization due to sincere and genuine religious beliefs which prohibit the immunization of their child in which case the principal or person in charge may require supporting documents.

In the area provided below, please write your statement. The statement must address all of the following elements:

- Explain in your own words why you are requesting this religious exemption.
- Describe the religious principles that guide your objection to immunization.
- Indicate whether you are opposed to all immunizations, and if not, the religious basis that prohibits particular immunizations.

**You may attach to this form additional written pages or other supporting materials if you so choose.**

Examples of such materials are listed on page 3.

I am exercising my right to refuse to vaccinate my child  
~~XXXXXX XXXXX XXXXX XXXXX~~ because doing so conflicts with my religious  
beliefs. I am requesting this religious exemption because it is my  
strong belief that all vaccines are made in violation of God's  
Word. Vaccines are made with toxic chemicals that are injected  
into the bloodstream by vaccination. All vaccines are made with  
foreign proteins (viruses and bacteria), and some vaccines are made  
with genetically engineered viral and bacterial materials. Therefore, I

March 2006

*Please continue your statement on page 2*

feel vaccinated my child conflicts with my religious beliefs because I believe that man is made in God's image and the injection of toxic chemicals and foreign proteins into the bloodstream is a violation of God's directive to keep the body, (which is to be treated as a temple), holy and free from impurities. God's Warning not to mix the blood of man with the blood of animals. Many vaccines are produced in animal tissues. The New Testament epistles provide an exposition of christian teaching regarding ethical behavior. Christians think of life as a gift of God and the body as a marvelous work of divine creation to be revered as a temple of God (I Corinthians 3:17, 2 Corinthians 7:1). Furthermore, there is no scriptural support for injecting poisons or any virus into the bloodstream to cure or prevent disease. The Old and New Testaments, however, are replete with references to keeping the body blemish-free so that we may have abundant life. These reasons are my religious principles and guide my objection to immunization.

When my daughter ~~was~~ was born she had milk allergies which led to inflammation of the intestines and internal bleeding. She had food sensitivities to all food. She could not digest her food which allowed her to have a poor immune system and she caught viruses frequently. She still currently has yeast toxins which overwhelm her body. Since she was so sick, doctors were dispensing antibiotics to her, but in turn we found that she was anaphylactic to several antibiotics. We were in and out of doctors offices.

Please sign in the space provided below and have the document notarized by a notary public where indicated.

I hereby affirm the truthfulness of the forgoing statement and have received and reviewed the informational immunization materials provided to me by my child's school.

Mrs. Anna Check 9/24/10  
Signature of Parent/Guardian Date

For the first year of her life and she was not getting better. This led me to Holistic Medicine which aided in the healing of my daughter. My relationship with the Lord grew stronger through prayer and guidance from the Word of God. My religious beliefs evolved and continue to do so and through the grace of God, my daughter is functioning significantly better and is healing. Attached are facts about the negative side effects from vaccinations.

# EXHIBIT 2

Handed into PS 35 along with medical 504 form.  
Sept. 2012

XXXXXXXXXXXXXXXXXXXX  
XXXXXX  
XXXXXX  
XXXXXXXXXXXXXXXXXXXX

**To Whom It May Concern:**

I am writing to convey the religious beliefs that have precluded my husband, Andrew and me from vaccinating our daughter, ~~XXXXXXXXXX~~, thereby exercising our rights under NY State law to receive a religious exemption for vaccination. I know that by requirement we are to focus on solely our religious considerations as the basis for that very important decision, yet I would assert that religion does not exist in a vacuum void of logic, philosophy or morality. So there will clearly be points displayed of all of these factors that have become the basis of our beliefs against vaccination.

I am requesting this religious exemption because it is my strong belief that all vaccines are made in violation of God's word. I was baptized in the Catholic Church, and through my spiritual journey and religious beliefs, I am definitively against vaccinations based on a foundation of Catholicism.

At the core of the faith and the teachings of the Catholic Church is the belief that Moral Conscience is sacred to Catholic tenets and must be obeyed as described in the Catechism and numerous encyclicals, especially by the Fourth Lateran Council, *"The Divine Law is the supreme rule of actions; our thoughts, desires, words, acts, all that man is, is subject to the domain of the law of God; and this law is the rule of our conduct by means of our conscience. Hence it is never lawful to go against our conscience; as the Fourth Lateran council says, 'Quidquid fit contra conscientiam, aedificat ad gehennam.'"* ["Whatever is done in opposition to conscience is conducive to damnation."]

As such, it is of my conscience to oppose vaccines that are derived from aborted fetal cell lines. The Vatican has concurred stating the following: *"As regards the diseases against which there are no alternative vaccines which are available and ethically acceptable, it is right to abstain from using these vaccines if it can be done without causing children, and indirectly the population as a whole, to undergo significant risks to their health."* (*Moral Reflections on Vaccines Prepared From Cells Derived From Aborted Human Foetuses, Pontifical Academy for Life, June 2005*). Therefore, as followers of this doctrine who are strongly opposed to abortion as a violation of The Fifth Commandment, we cannot in good conscience use any product that takes its origin in abortion.

Although our parents chose presumed artificial immunity for us as infants, with little or no choice or education otherwise, it is our strong belief that the God given immunities we are born with cannot be improved upon. That is not to say that my husband and I don't believe in medicines to treat afflictions that our born systems cannot fight or heal, but to introduce foreign matter into a untested immune system demonstrates a great lack of faith in the gift of health in life that God gives us at birth.

On the balance of the recommended vaccines, most all are cultured from DNA and RNA from animals of the likes of monkeys and chickens. We believe that in God's eyes injecting doses of these diseases into an immune system would be seen as nothing short of an atrocity. Thus, in abidance with that belief, and as ~~XXXXXX~~ protectors in faith, I could not and will not subject her to any such vaccinations.

Andrew and I have taken this decision very seriously. Early on, we had thought that vaccinations were required by law and a fore gone conclusion, and we discussed all medical, scientific, philosophical and moral issues surrounding vaccinating our child at great length after ~~XXXXXX~~ was born and was experiencing medical issues from vaccinations she received at birth, before we knew better medically and spiritually. Medically ~~XXXXXX~~ has an exemption from receiving vaccinations; yet, it was truly the contradiction with my religious beliefs that had been a great source of emotional conflict and duress for myself.

Just prior ~~XXXXXX~~ entering Kindergarten, we were comforted to learn that my religious beliefs would be respected and that we had the right to get this exemption for the preservation of our faith, and of our children. In that the use of these vaccines would be in direct violation of our Catholic teachings and doctrine on moral conscience, and a contradiction of our faith in the natural blessings of God from birth, I submit this exemption in accordance with NY State Law under NY CLS Pub Health § 2164 (9).

Sincerely,

Dina M. Check

Andrew Check

# EXHIBIT 3

after being denied,  
I re submitted a new  
letter with more info.

Dina & Andrew Check

XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX

10/26/12

To Whom It May Concern:

I am exercising my right to refuse my child ~~XXXXXXXXXXXX~~ because doing so conflicts with my religious beliefs. I am requesting this religious exemption because it is my strong belief that all vaccines are made with toxic chemicals that are injected into the bloodstream by vaccination.

According to the FDA all vaccines are made with foreign proteins (viruses & bacteria's), and some vaccines are even made with genetically engineered viral and bacterial materials.

At the core of my religious beliefs and the teachings of the Catholic Church is the belief that Moral conscience is sacred to Catholic tenets and must be obeyed as described in the catechism and numerous encyclicals. Hence it is never lawful to go against our conscience. The New Testament epistles provide an exposition of Christian teaching regarding ethical behavior. Christians think of life as a gift of God and the body as a marvelous work of divine creation to be revered as a temple of God (I Corinthians 3:16,619). To keep the body/temple holy and clean from blemish, scripture warns against defiling the body. (I Corinthians 3:17, 2 Corinthians 7:1).

As such, it is of my conscience to oppose vaccinations that are derived from aborted fetal cell lines. I believe that man is made in God's image and the injection of toxic chemicals and foreign proteins into the bloodstream is a violation of God's directive to keep the body, (which is to be treated as a temple), holy and free from impurities. God's warning not to mix the blood of man with the blood of animals. Many vaccines are produced in animal tissues. The virus in any vaccine is cultured on tissue from monkeys, chicks, or aborted fetuses, which have produced antigens that cannot be filtered out.

The Vatican has concurred stating the following: "As regards the disease against which there are no alternative vaccines which are available and ethically acceptable, it is right to abstain from using these vaccines if it could be done without causing children, and indirectly the population as a whole, to undergo significant risks to their health".

When my ~~daughter XXXXX~~ was born she had milk allergies and was allergic to all proteins, which led to inflammation of the intestines which in turn caused internal bleeding, vomiting and severe diarrhea. My daughter was born with a compromised immune system. Since she was so sick, doctors were dispensing antibiotics to her, but in turn we found that she was anaphylactic to several antibiotics. We were in and out of doctors offices for the first several years of her life. I had to eliminate solid foods from her diet and put her on Neocate, which is an amino acid based formula for her survival and currently still uses for nutrition. ~~XXXXXX~~ Immune system will not tolerate any artificial sugars or genetically modified foods, medications, etc.

I have now turned to holistic medicine which has aided in the healing of my daughter. My relationship with the Lord grew stronger through my prayers and guidance from the word of God. My religious belief evolved and continues to do so and through the grace of God, my daughter is functioning significantly better.

The use of these vaccines would be in direct violation of our Catholic teachings and doctrine on Moral conscience, and a contradiction of our faith in the natural blessings of God from birth, we submit this exemption in accordance with NY State Law under NY CLS PUB Health S 2164 (9).

We are opposed to all immunizations because we believe that in God's eyes injecting doses of these diseases into an immune system would be seen as nothing short of an atrocity. Thus, in abidance with that belief, and as ~~XXXX~~ protectors in faith, I could not and will not subject her to any such vaccinations. I have taken this decision very seriously. I am asking for this religious exemption for the preservation of our faith, and the safety and well being of my ~~XXXXXXXXXXXXXXXXXXXX~~

Sincerely,

Dina M. Check  
Andrew check

# EXHIBIT 4

## MR. & MRS. ANDREW CHECK

XXXXXXXXXXXXX  
XXXXXXXXXXXXX  
XXXXXXXXXXXXX  
XXXXXXXXXXXXX

From the moment ~~XXX~~ was conceived, we knew there was a spiritual power watching over us. The Lord and His angels have surrounded us every step of the way. We rely on the Lord and His word and He has never let us down. The same way we receive Christ is the same way we are supposed to live each day of our lives—in total, complete dependence on Him. We thank The Lord for every second of every day that we get the honor of being ~~XXX~~'s parents, for all of our children are the most precious gifts that God has given us.

~~XXX~~ is only five years old, but she has a deep connection with The Lord. His love radiates through her. We read blessings and passages to her and she understands their significance. It is a joy to watch her talk about the grace of God, which she does often. It is ~~XXX~~'s unwavering faith that inspires us as a family to move forward through the difficult times. The Lord's grace is like light. But what we human's tend to do a lot of the time is fight with darkness, when all we need to do is just run to the light. ~~XXX~~ understands this notion with all of her soul. What's the purpose of struggling in the dark and banging into each other, when all we have to do is simply flip on a switch? The minute the light comes on, it swallows up the darkness.

People often spend time being mad about things in their lives, but it is our ~~five-year-old~~ daughter, ~~XXX~~, who reminds us that all we really need to do is just get more light into the situation. Galatians 5:16 urges us to *walk and live [habitually] in the [Holy] Spirit...then you will certainly not gratify the cravings and desires of the flesh....* Notice how it doesn't say to follow the ways of the world and instead to follow The Lord and His word in order to see the light? ~~XXX~~ is just a child, but she comprehends the power of God's grace and she talks about how she feels His presence with her at all times.

A specific example of when we experienced the grace of God was when ~~XXX~~ was a little over a year old and her doctor had prescribed her a compounded suppository antibiotic. We administered the medicine at home as instructed, but less than twenty seconds later ~~XXX~~ went into an anaphylactic shock. She started vomiting, convulsing, water was pouring out of her rectum, and her eyes rolled into the back of her head. Everything was happening so quickly, I couldn't reach the phone to call 911. My first reaction was to cry out to the Lord, "In the name of Jesus, save my baby!" All of a sudden, the vomiting stopped and the color came back into her face. Her eyes were looking at us, she was breathing normally and a peace and calmness came over her. The only one who could save us and rescue ~~XXX~~ so swiftly during that crisis was Our Heavenly Father. This is just one of the many miracles that this family has experienced through the Lord, Jesus Christ.

The love one has for their child runs so deep, that there cannot be a love that compares. Every ounce of pain that ~~XXX~~ has suffered, we as her parents have suffered through it as well. There is nothing worse than watching your child experience severe agony. The Lord has gotten us through the toughest of times and with Him by our sides-- we never walk alone.

We are a practicing Catholic family and our religion and our faith are the principals upon which we rely to raise our family, care for our children, and live our lives. We know that our faith and spirituality is a journey and each day brings us more knowledge and understanding of God's Word and God's Will for His people. We practice our faith in earnest by reading the Bible, listening to teachings, and most importantly using life's lessons and experiences to bring me closer to God and to live according to His Word. My faith grows stronger everyday as I gain a deeper understanding of my conscience, my truth, and my beliefs. Inside myself and my conscience I am with God. It is an inner place, away from the world- it is the kingdom of heaven. My journey in this world is guided by my deepest truth and beliefs. I approach my life and the foundations of my family: my marriage and raising my children by putting my faith in God, listening to my inner conscience and doing what I feel is right and in the way of the Lord. In Jesus' sermon on the Mount (Matthew 5:5) he said "Blessed are the meek for they will inherit the earth." This means that these people drop out of the journey of self and submit to God, not their own thoughts or what the world may believe. Further, my family and I attend church weekly and daily we teach our children to be selfless, kind, charitable, and humble as this is the way of the Lord. We are submitting this statement of our religious beliefs and request that our children be granted a religious exemption from immunizations.

We believe that we have a perfect creator—God. Life is a gift from God and the body is a marvelous work of divine creation to be revered as a temple of God. To inject invasive and unnatural substances into this divine creation is showing a lack of faith in God and His way. It is our belief that the God given immunities we are born with cannot be improved upon nor should we try to do this through unnatural, man-made, artificial immunizations that violate many aspects of our religious beliefs. This does not mean that we are against medical treatment, however, immunization demonstrates a great lack of faith in the gift of health and the promise of protection that we are given at birth and through baptism when we put our child in the hands of the Lord. We believe that all immunizations are made in violation of God's Word. Immunizations contain unnatural substances that are injected into the bloodstream. We believe the body and the blood to be holy as they were created by God. Our faith and religious teachings direct us to keep our bodies pure and holy as we were created in the image of God and our bodies are the temple of the Holy Spirit. The Bible and it's teachings also warn against mixing the blood of man with the blood of the beast and being that there are immunizations that are grown on chicken embryos and monkey livers, this is a direct violation of our religious teachings and our beliefs.

The New Testament epistles provide an exposition of Christian teaching regarding ethical behavior. Christians think of life as a gift from God and the body as a marvelous work of divine creation which is to be revered as a temple of God. Furthermore, there is no scriptural support for injecting poisons or any viruses into the bloodstream to cure or prevent disease but both the Old and New Testaments are replete with references to keeping the body blemish free in order to have abundant life and blessings from the Lord.

I also believe in the Catechism of the Catholic Church as these teachings are at the core of our faith and the teachings of the Catholic Church. This supports the belief that moral conscience is sacred to Catholic tenets and must be obeyed as described in the Catechism. The Fourth Lateran Council states "The Divine Law is the supreme rule of actions; our thoughts, desires, words, acts, all that man is, is subject to the domain of the law of God; and that law is the rule of our conduct by

means of our conscience. Hence it is never lawful to go against our conscience; as the Fourth Lateran council says, "whatever is done in opposition to conscience is conducive to damnation." Some immunizations are derived from aborted fetal cells and abortion is against God's 5th commandment, "[t]hou shall not kill" and also against conscience. Therefore, to submit to any immunization containing aborted fetal cells is a violation of my faith and beliefs that would sentence me to damnation.

The following scripture from the Holy Bible support our religious beliefs:

*"So God created man in His own image; in the image of God He created him; male and female He created them."*

*(Genesis 1:27)*

*"That your faith should not be in the wisdom of men but in the power of God."*

*(1 Corinthians 2:5)*

*"You shall have no other gods before Me."*

*(Exodus 20:3)*

*"Or do you not know that your body is the temple of the Holy Spirit who is in you, whom you have from God, and you are not your own?"*

*(1 Corinthians 6:19)*

*"Do you not know that you are the temple of God and that the Spirit of God dwells in you?"*

*(1 Corinthians 3:16)*

*"If anyone defiles the temple of God, God will destroy him. For the temple of God is holy, which temple you are."*

*(1 Corinthians 3:17)*

*"You shall not eat anything that dies of itself..."*

*(Deuteronomy 14:21)*

*"But you shall not eat flesh with its life, that is, its blood."*

*(Genesis 9:4)*

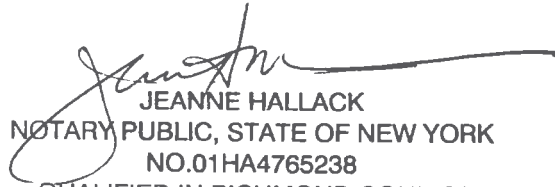
The forgoing are our sincere and genuine religious beliefs and for the reasons stated above we object to all vaccines in that they are a violation of our faith.



ANDREW CHECK



DINA CHECK



JEANNE HALLACK  
NOTARY PUBLIC, STATE OF NEW YORK  
NO.01HA4765238

QUALIFIED IN RICHMOND COUNTY  
COMMISSION ESPIRES SEPTEMBER 30, 20 14

# EXHIBIT 5

NYS-DOH-2010-00-44

SCHOOL HEALTH PROGRAM



### Medical Request for Immunization Exemption

**Instructions:** This form is to be completed by the student's treating physician (must be licensed in NYS). The medical basis for exemption request should be based on medical literature such as AAP Red Book, ACIP or CDC guidance. Failure to provide contact information or sufficient written medical documentation will delay the review process. Requests for additional information, either by phone or in writing, that are not responded to within 2 weeks will result in denial of exemption request.

XXXXXXXXXXXXXXXXXXXX under my care for Pediatric patient  
(Student's name) (Diagnosis)

- A. I request that this student be excused from having the following required immunization(s) and certify that the particular immunization(s) may be detrimental to the child's health:

1. DTaP 2. MMR 3. Hep B 4. Varicella 5. Polio (1st)

- B. Detail medical basis for exemption request below. (If request based on titers, please include copy of lab documentation). **NOTE: REQUESTS FOR MEDICAL EXEMPTION FROM MMR BASED ON EGG ALLERGY WILL NOT BE ACCEPTED. NATIONAL GUIDELINES ARE CLEAR THAT EGG ALLERGY (EVEN IF ANAPHYLACTIC) IS NOT A VALID CONTRAINDICATION FOR MMR VACCINATION.** (Physician may attach a letter detailing the medical basis for the exemption request).

XXXXXXXXXX a week into system + has had health problem  
XXXXXXXXXX foods various + can be allergic which led to  
freaky to her. GI issue + allergies. She is still by  
15 hrs + at 1 hr he it is not resolved but she seems better sometimes

- C. I am this student's treating healthcare provider and can be reached via Telephone: (718) 962-6503 and/or  
Beeper / Cell \_\_\_\_\_ on the following days and times:  
Mon 8 to 6 (hrs) Tues 8 to 6 (hrs) Wed 8 to 6 (hrs) Thurs 8 to 6 (hrs) Fri 10 to \_\_\_\_\_ (hrs)

Provider's original signature [Signature]  
Print Name/ Degree Michael G. G...

Licensed 213343  
Date 3/7/12

### PARENT/GUARDIAN CONSENT FOR RELEASE OF MEDICAL INFORMATION

I authorize Dr. Michael G. G... (name of doctor) to provide physicians and nurses employed by the New York City Department of Education and the Department of Health and Mental Hygiene and their medical consultants with information contained in my child's medical record, including, but not limited to, copies of laboratory or other examinations supporting the exemption of my child from having required immunizations.

Parent/Guardian's signature: [Signature]

Parent/Guardian: Print name: Dina Check Date: \_\_\_\_\_

### FOR DOE USE ONLY

Student's Name XXXXXXXXXXXXXXXXXXXX ID# \_\_\_\_\_ School DBN \_\_\_\_\_

### FOR OFFICE OF SCHOOL HEALTH USE ONLY

Medical review completed by Dr. \_\_\_\_\_ Date \_\_\_\_\_  
Physician Comments \_\_\_\_\_

Exemption Status: Denied Approved Length of exemption: Permanent Yearly  
Date of Renewal if less than yearly: \_\_\_\_\_

Rev March 2010

# EXHIBIT 6



Office of School Health  
28-11 Queens Plaza North, Room 402  
Long Island City 11102

1-718-391-8116 tel.  
1-718-391-8128 fax

Re: ~~XXXXXXXXXX~~  
Student ID: ~~XXXXXXXXXX~~  
Borough: ~~XXXXXXXXXX~~  
District: ~~XXXXXX~~  
School: ~~XXXXXX~~  
Immunization(s) Exemption Request:

October 18, 2012

Dear Dina Check:

Your request for medical immunization exemption for the above named student has been reviewed by a physician at the New York City Department of Health and Mental Hygiene's Office of School Health. The documentation provided by your child's health care provider does not meet nationally recognized standards for medical contraindication of immunization. This request is denied for the following immunizations: all vaccines

You may appeal this decision by providing additional medical documentation within ten school days of receipt of this letter. Appeals submitted without additional medical documentation will be reviewed by the Medical Director and all decisions will be final.

Sincerely,

*Julia Sykes*

Julia Sykes  
Office of School Health

c: Principal  
CFN Health Liaison

# EXHIBIT 7

(218) 391.8383



Office of School Health/  
Office of Related and Contractual Services  
28-11 Queens Plaza North, Room 402  
Long Island City 11101

(718) 391-8118 tel  
(718) 391-8128 fax

October 22, 2012

MEMORANDUM

TO: Parent of ~~XXXXXXXXXX~~

FROM: Julia Sykes, Health Service Coordinator *JS*  
Department of Education Immunization Program  
Office of School Health

SUBJECT: Request for Religious Exemption

The Office of School Health has reviewed the request for a religious exemption from immunization for the following student:

Student's Name: ~~XXXXXXXXXX~~

Student's I.D. ~~XXXXXXXXXX~~

Borough, District, School: ~~XXXXXXXXXX~~

With regard to this request, the following action is taken.

  X   Additional Information Required

Explanation: It has been determined that there is insufficient documentation to determine whether a religious exemption from immunization is warranted and that additional documentation in support of your request must be submitted. You must provide additional documentation within ten school days of receipt of this letter.

The additional documentation you submit must address all of the following elements:

- o Explain in your own words why you are requesting this religious exemption.
- o Describe the religious principles that guide your objection to immunization.
- o Indicate whether you are opposed to all immunization, and if not, the religious basis that prohibits particular immunizations.

**Please be advised that affidavits and/or letters from the internet, or a letter from you, a lawyer, a member of the clergy or any other individual simply indicating that a parent has such a religious belief, without any further explanation, is inadequate to support the granting of an exemption.**

**Please note** that the Public Health Law does not authorize the granting of exemptions based upon personal, moral, secular, scientific or philosophical beliefs

**Appeal Process for Religious Exemption**

If your child is not offered an exemption, you may appeal the denial by arranging an interview with your CFN Health Liaison within ten school days of receipt of letter. During this appeal process, your child will be permitted to remain in school. Based upon the results of that interview and the documentation submitted, a written determination will be made on your appeal.

If the appeal is denied, you may appeal the denial to the NYS Commissioner of Education (518) 474-6400, within thirty (30) days of the decision, pursuant to Education Law, Section 310. Please be advised that pending an appeal to the Commissioner, your child will not be permitted to remain in school.

c: Principal  
CFN Health Liaison

# EXHIBIT 8



Office of School Health/  
Office of Related and Contractual Services  
28-11 Queens Plaza North, Room 402  
Long Island City 11101

(718) 391-8116 tel  
(718) 391-8128 fax

November 7, 2012

MEMORANDUM

TO: Parent of ~~XXXXXXXXXX~~

FROM: Julia Sykes, Health Service Coordinator *JS*  
Department of Education Immunization Program  
Office of School Health

SUBJECT: Request for Religious Exemption

The Office of School Health has reviewed the request for a religious exemption from immunization for the following student:

Student's Name: ~~XXXXXXXXXX~~

Student's I.D. #: ~~XXXXXXXXXX~~

Borough, District, School: ~~XXXXXXXXXX~~

With regard to this request, the following action is taken.

X EXEMPTION DENIED

Explanation:

It has been determined that the documentation you submitted is inadequate to warrant an exemption and does not substantiate a finding that you hold genuine and sincere religious beliefs which are contrary to immunization.

You may appeal the denial of your exemption request by arranging an interview with Jolan Nagi, Health Liaison at 718-759-4875 within ten school days of receipt of this letter. It is the policy of the New York Department of Education to allow students to

# EXHIBIT 9



# EXHIBIT 10



Office of School Health/  
Office of Related and Contractual Services  
25-11 Queens Plaza North, Room 402  
Long Island City 11101

(718) 391-8116 tel  
(718) 391-8128 fax

December 4, 2012

MEMORANDUM

TO: Parents of XXXXXXXXXX  
XXXXXX

FROM: Julia Sykes, Health Service Coordinator ~~OS~~  
Department of Education Immunization Program  
Office of School Health

SUBJECT: Request for Religious Exemption

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The Office of School Health has reviewed your appeal of the denial of a religious exemption from immunization for the following student:

Student's Name: XXXXXXXX  
XXXXXX

Student's I.D. #: XXXXXXXX  
XXXXXX

Borough, District, School: XXXXXXXX  
XXXXXX

With regard to this request, the following action is taken.

    X     APPEAL DENIED

**Explanation:**

Your appeal of the denial of a religious exemption from immunization for your child is denied. The documentation you submitted and the information provided during the appeal interview do not substantiate a finding that you hold genuine and sincere religious beliefs which are contrary to immunization. You may appeal the denial to the NYS Commissioner of Education (518) 474-6400, within thirty (30) days of the decision, pursuant to Education Law, Section 310. During this appeal process, your child will not be permitted to remain in school.

c: Principal  
CFN Health Liaison